

28.03.2025

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Ct. no.39

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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. 479 of 2025

**Sudipa Mallick Ghosh
-Vs-
The State of West Bengal & ors.**

Mr. Tanmay Chowdhury

Ms. Ritoprita Ghosh

... for the petitioner

Mr. Joydip Banerjee

Mrs. Kakali Naskar

... for the State-respondent

Mr. Chittapriya Ghosh

Mr. Somesh Kumar Ghosh

Ms. Priyanka Saha

... for the respondent nos.7 & 8

Affidavit of service filed on behalf of the petitioner is taken on record.

This writ petition has been filed seeking direction upon the respondent authorities particularly respondent no.6, the Pradhan, Bengai Gram Panchayat to allow the petitioner to construct permanent drainage facility and also construct the guard wall/boundary wall surrounding her residential house situated over L.R. Plot No.6183/8395, J. L. No.42 admeasuring about 0.06 sataks under Mouza Bengai within Goghat Police station in the district of Hooghly and to consider the representations given by the petitioner dated 8th August, 2024 and 11th November, 2024.

The petitioner contends that the petitioner by way of purchase of *bhiti* land within the aforementioned plot became the owner of the property-in-question and her name was duly mutated in the L.R. record of rights. After obtaining sanctioned building plan from the concerned Panchayat authority the petitioner constructed her house. At the time of such construction the petitioner was supposed to leave a side space of 3' ft. but instead of that she kept 1' ft. extra side space for construction of drainage system and boundary wall. Recently, while the petitioner undertook to construct the drainage facility as well as boundary wall, she was obstructed by the private respondents from making the same. The petitioner approached the local Gram Panchayat for assistance so that such work of construction of drainage system and the boundary wall be completed by her. However, the local Gram Panchayat failed to extend any necessary assistance for construction of the drainage system and the boundary wall by the petitioner. Hence, this writ petition.

Mr. Tanmay Chowdhury, learned Advocate for the petitioner submits that the work of construction undertaken by the petitioner has been made in accordance with plan sanctioned by the local Gram Panchayat. At the time of making such construction the petitioner left 4' ft. side space, which is more than 1' ft. as per requirement. Such extra side space was left in order to make boundary wall as well as drainage system.

However, the private-respondents without any rhyme and reason are obstructing to such construction on frivolous grounds. He seeks an appropriate order be passed upon the respondent no.6, the Pradhan Bengai Gram Panchayat for allowing the petitioner to construct the boundary wall and the drainage system.

Mr. Joydip Banerjee, learned Advocate appearing on behalf of the State-respondent submits that the petitioner has not left the requisite 3' ft. wide space while making construction. Further, the dispute as raised in the writ petition between the petitioner and the private-respondents is civil in nature, which has to be adjudicated by the Civil Court having jurisdiction. The Writ Court cannot go into the disputed question of fact. He files a report furnished by Block Development Officer, Goghat-II Development Block, which is taken on record.

Mr. Chittapriya Ghosh, learned Advocate representing the private respondent nos.7 and 8 also submits that the boundary wall and the drainage system which the petitioner intends to construct is encroaching upon the land of the private respondent nos.7 and 8. The petitioner did not leave the requisite 3' ft. side space during construction. The entire dispute is civil in nature and should be adjudicated by the jurisdictional Civil Court.

In reply, Mr. Chowdhury, learned Advocate for the petitioner submits that fresh inspection be directed to be conducted in order to decipher the true state of affairs.

The principal contention of the petitioner is that she has left 4' ft. wide space which is 1' ft. extra as per requirement of 3' ft. Such aspect is disputed by the State-respondent as well as the private-respondents. The report of the Block Development Officer also shows that requisite side space of 3 ft. has not been left by petitioner. Whether the petitioner left 3 ft. side space or more than that are disputed questions of fact which cannot be decided by a writ Court.

Bearing in mind the above, this Court is of the opinion that since the entire dispute between the petitioner and the private-respondents is civil in nature, the same needs to be adjudicated by a civil Court. Thus the writ petition falls short of merit.

Accordingly, the writ petition being **WPA 479 of 2025** stands dismissed.

However, it is left to the petitioner to approach the Civil Court for redressal of her grievance.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(**Bivas Pattanayak, J.**)